Remarks/Copending Applications

Under the provisions of MPEP § 2001.06(b) the Assignee is advising the Examiner of material developed for copending application(s) that MAY BE material to patentability.

An examination of the Office Actions from the Asset Reliance portfolio shows that when "normal" §101, §102, §103 and/or §112 rejections do not appear to be effective in rejecting a patent, then the Examiners in the U.S.P.T.O. have attempted to use "technical reasoning" to reject patent applications without evidence instead of issuing a patent.

The first experience with the use of "technical reasoning" as the basis for a patent rejection for an application now owned by Asset Reliance came on application 09/688,983 where the Examiner attempted to use "technical reasoning" to support a rejection for a lack of utility for claims related to measuring and optimizing risk by element of value and category of value for a commercial enterprise. The Examiner rejected the claims by stating that the risks for the intangible elements of value could not be measured. The Examiner undermined this argument by arguing in an Office Action for application 10/329,172 that the measurement of risk by element of value was old and well known in the art (the list included intangible elements of value).

When Asset Reliance expressed amazement that something old and well known in the art was impossible to do, the Examiner for 09/688,983 changed his arguments to state:
   a) it was not possible to measure brand risk,
   b) it was not possible to measure market sentiment (one of the categories of value), and
   c) the selection of variables in the models was not concrete as it was subjective and appeared to be driven by fear and emotion.

Another piece of unsupported technical reasoning has been the allegation that the Asset Reliance specification was missing an unspecified critical step. The unsupported allegations associated with these claim rejections have been repeated in rejections for a lack of utility and/or a lack of written description made for a number of Asset Reliance patent applications as shown in the tables below.

The tables above also show that almost all of the allegations came from a single Examiner with what appears to be a well documented lack of skill in the relevant arts.

Table 1 - Unsupported allegation: disclosed process including the selection of variables for use in the models was not concrete as it was too subjective (1 – 8)

Application	Specifics provided	Counter argument(s)
1) 09/688,983	None, in spite of repeated requests for clarification	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete d) the U.S.P.T.O. has previously argued that determining value and risk by element of value was old and well known in the art
2) 09/761,670*	None, in spite of repeated requests for clarification	a) Yang Bo reference teaches that the method for developing neural network models used in the application is the most concrete method available b) U.S.P.T.O. has issued over 3,500 patents for neural network related inventions that use less concrete methods
3) 10/441,385*	None, in spite of repeated requests for clarification	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete d) the U.S.P.T.O. has previously argued that determining value and risk by element of value was old and well known in the art
4) 10/743,417*	None, request for clarification has been submitted	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete

Application	Specifics provided	Counter argument(s)
5) 10/750,592* (keywords)	None, request for clarification has been submitted	a) Patent 7,283,982 develops regression models for data sets from any domain and it was judged to concrete. b) Patent 7,080,207 uses regression models to identify impacts c) Google, d) Yahoo!, e) Numerous other patents for word relevancy and search
6) 10/750,592* (common schema)	None, request for clarification has been submitted	a) U.S. Patent 6,732,095 which uses very similar method for data integration in accordance with a common dtd, b) U.S.P.T.O. has previously argued the common schema integration was old and well known in the art, and c) U.S. Patent 6,836,773 to Oracle which uses 3 different schemas without describing any of them
7) 10/821,504*	None, request for clarification has been submitted	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete d) the U.S.P.T.O. has previously argued that determining value and risk by element of value was old and well known in the art
8) 11/278,419*	None	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete d) the U.S.P.T.O. has previously argued that determining value and risk by element of value was old and well known in the art

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Table 2 - Unsupported allegation: risk, market sentiment, keyword relevancy, etc. cannot be objectively/reliably quantified. This allegation amounts to a statement that the cited measure can not be modeled (9 – 11).

Application	Specifics provided	Counter argument(s)
9) 09/688,983	Brand risk and market sentiment cannot be measured, no details	a) Patent 7,283,982 develops regression models for data sets from any domain and it was judged to concrete. b) Patent 7,080,207 uses regression models to identify impacts. c) Academic research showing market sentiment and brands can be measured reliably. d) All major accounting firms offer services to measure brands and have stated that measuring one intangible is like measuring another. e) The U.S.P.T.O. has previously argued that measuring risk by element of value is old and well known in the art f) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments
10) 10/750,792*	Keyword relevancy cannot be measured, no details	a) Patent 7,283,982 develops regression models for data sets from any domain and it was judged to concrete. b) Patent 7,080,207 uses regression models to identify impacts c) Google, d) Yahoo!, e) Numerous other patents for word relevancy and search
11) 11/278,419*	Risk by element of value and external factor for a security portfolio	a) Patent 7,283,982 uses one (step wise regression) of the two steps used to objectively select variables for modeling, its overall process is less rigorous and it was judged to be concrete, b) U.S.P.T.O. routinely issues patents for methods that rely on subjective assessments, c) Patent 7,080,207 uses regression models to determine impacts and it was judged to be concrete d) the U.S.P.T.O. has previously argued that determining value and risk by element of value was old and well known in the art

* same Examiner

Table 3 - Unsupported allegation: specification is missing a step (1 – 4):

Application	Specifics provided	Counter argument
12) 09/761,670*	None, assumed to be related to methods disclosed in Patent 5,991,758	a) Steps described in patent 5,991,758 have no relevance to the claimed invention, declaration documenting this fact has been provided b) the steps described in 5,991,758 do apply to patents issued to Mitsubishi and Daimler Benz but they were not mentioned
13) 10/441,385*	None, assumed to be related to methods disclosed in Patent 5,991,758	a) Steps described in patent 5,991,758 have no relevance to the claimed invention, declaration documenting this fact has been provided b) the steps described in 5,991,758 do apply to patents issued to Mitsubishi and Daimler Benz but they were not mentioned
14) 10/645,099	None, assumed to be related to methods disclosed in Patent 5,991,758	a) Steps described in patent 5,991,758 have no relevance to the claimed invention, declaration documenting this fact has been provided b) the steps described in 5,991,758 do apply to patents issued to Mitsubishi and Daimler Benz but they were not mentioned
15) 10/821,504*	None, assumed to be related to methods disclosed in Patent 5,991,758	a) Steps described in patent 5,991,758 have no relevance to the claimed invention, declaration documenting this fact has been provided b) the steps described in 5,991,758 do apply to patents issued to Mitsubishi and Daimler Benz but they were not mentioned

A review of the allegations in the three tables above shows that they fall into two groups:

1) Seven (7) allegations that are demonstrably false. Specifically, allegations 2, 9 and 10 are refuted by academic research; issued patents and the real world success of companies like Google and Yahoo! while allegations 12 – 15 are moot because of the way the invention is actually implemented (declaration noting that the methods of 5,991,758 are not relevant to ARI applications has also been provided),

2) Eight (8) allegations that methods others use in issued patents are transformed into subjective guesswork when placed in Asset Reliance patent applications. Specifically allegations 1, 3 – 8 and 11 are allegations that a method disclosed by Asset Reliance doesn't work when an issued patent indicates that the same method, a similar method or a less rigorous method is judged to work concretely when claimed by others.

Statement under 37 CFR 1.111

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. 37 CFR 1.111 states in part that:

> In amending in response to a rejection of claims in an application or patent undergoing reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections.

The Assignee notes that this requirement is not relevant to the instant application because, as detailed above, there are no references or objections to avoid. Having said that, the Assignee notes that the reason the claims were amended put the application in a form for allowance and issue.

Reservation of rights

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their cancellation or modification.

Conclusion

As detailed in the amendment/reply submitted on March 1, 2008, the art rejections for the instant application have no merit and serve mainly to provide additional evidence that those authoring them lack even the most basic skills in the relevant arts. The non art rejections for the instant application have no merit as discussed above and serve mainly to provide additional evidence that those authoring them are profoundly biased.

As it stands now the Assignee's application with a priority date in 2002 for developing causal predictive models and applying them to optimizing the financial performance (value, risk and combinations thereof) of a commercial enterprise stands rejected as obvious, subjective and non-statutory. At the same time, the claims of a large company filed almost two years later for using a similar, but less rigorous process for developing predictive models without identifying a specific application are accepted as novel, concrete and statutory.

The pending claims are of a form and scope for allowance. Prompt notification thereof is respectfully requested.

Respectfully submitted,

Asset Trust, Inc.

/B.J. Bennett/

B.J. Bennett, President

Date: July 19, 2008